



Electric Utility Oversight Committee

**Adopted in House Comm. on May 30, 2007**

09500SB1299ham001

LRB095 03672 MJR 37298 a

1 AMENDMENT TO SENATE BILL 1299

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1299 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing  
5 Sections 8-406, 8-503, and 16-118 and by adding Section 20-130  
6 as follows:

7 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

8 Sec. 8-406. Certificate of public convenience and  
9 necessity.

10 (a) No public utility not owning any city or village  
11 franchise nor engaged in performing any public service or in  
12 furnishing any product or commodity within this State as of  
13 July 1, 1921 and not possessing a certificate of public  
14 convenience and necessity from the Illinois Commerce  
15 Commission, the State Public Utilities Commission or the Public  
16 Utilities Commission, at the time this amendatory Act of 1985

1 goes into effect, shall transact any business in this State  
2 until it shall have obtained a certificate from the Commission  
3 that public convenience and necessity require the transaction  
4 of such business.

5 (b) No public utility shall begin the construction of any  
6 new plant, equipment, property or facility which is not in  
7 substitution of any existing plant, equipment, property or  
8 facility or any extension or alteration thereof or in addition  
9 thereto, unless and until it shall have obtained from the  
10 Commission a certificate that public convenience and necessity  
11 require such construction. Whenever after a hearing the  
12 Commission determines that any new construction or the  
13 transaction of any business by a public utility will promote  
14 the public convenience and is necessary thereto, it shall have  
15 the power to issue certificates of public convenience and  
16 necessity. The Commission shall determine that proposed  
17 construction will promote the public convenience and necessity  
18 only if the utility demonstrates: (1) that the proposed  
19 construction is necessary to provide adequate, reliable, and  
20 efficient service to its customers and is the least-cost means  
21 of satisfying the service needs of its customers or that the  
22 proposed construction will promote the development of an  
23 effectively competitive electricity market that operates  
24 efficiently, is equitable to all customers, and is the least  
25 cost means of satisfying those objectives; (2) that the utility  
26 is capable of efficiently managing and supervising the

1 construction process and has taken sufficient action to ensure  
2 adequate and efficient construction and supervision thereof;  
3 and (3) that the utility is capable of financing the proposed  
4 construction without significant adverse financial  
5 consequences for the utility or its customers.

6 (c) After the effective date of this amendatory Act of  
7 1987, no construction shall commence on any new nuclear power  
8 plant to be located within this State, and no certificate of  
9 public convenience and necessity or other authorization shall  
10 be issued therefor by the Commission, until the Director of the  
11 Illinois Environmental Protection Agency finds that the United  
12 States Government, through its authorized agency, has  
13 identified and approved a demonstrable technology or means for  
14 the disposal of high level nuclear waste, or until such  
15 construction has been specifically approved by a statute  
16 enacted by the General Assembly.

17 As used in this Section, "high level nuclear waste" means  
18 those aqueous wastes resulting from the operation of the first  
19 cycle of the solvent extraction system or equivalent and the  
20 concentrated wastes of the subsequent extraction cycles or  
21 equivalent in a facility for reprocessing irradiated reactor  
22 fuel and shall include spent fuel assemblies prior to fuel  
23 reprocessing.

24 (d) In making its determination, the Commission shall  
25 attach primary weight to the cost or cost savings to the  
26 customers of the utility. The Commission may consider any or

1 all factors which will or may affect such cost or cost savings.

2 (e) The Commission may issue a temporary certificate which  
3 shall remain in force not to exceed one year in cases of  
4 emergency, to assure maintenance of adequate service or to  
5 serve particular customers, without notice or hearing, pending  
6 the determination of an application for a certificate, and may  
7 by regulation exempt from the requirements of this Section  
8 temporary acts or operations for which the issuance of a  
9 certificate will not be required in the public interest.

10 A public utility shall not be required to obtain but may  
11 apply for and obtain a certificate of public convenience and  
12 necessity pursuant to this Section with respect to any matter  
13 as to which it has received the authorization or order of the  
14 Commission under the Electric Supplier Act, and any such  
15 authorization or order granted a public utility by the  
16 Commission under that Act shall as between public utilities be  
17 deemed to be, and shall have except as provided in that Act the  
18 same force and effect as, a certificate of public convenience  
19 and necessity issued pursuant to this Section.

20 No electric cooperative shall be made or shall become a  
21 party to or shall be entitled to be heard or to otherwise  
22 appear or participate in any proceeding initiated under this  
23 Section for authorization of power plant construction and as to  
24 matters as to which a remedy is available under The Electric  
25 Supplier Act.

26 (f) Such certificates may be altered or modified by the

1 Commission, upon its own motion or upon application by the  
2 person or corporation affected. Unless exercised within a  
3 period of 2 years from the grant thereof authority conferred by  
4 a certificate of convenience and necessity issued by the  
5 Commission shall be null and void.

6 No certificate of public convenience and necessity shall be  
7 construed as granting a monopoly or an exclusive privilege,  
8 immunity or franchise.

9 (Source: P.A. 90-561, eff. 12-16-97.)

10 (220 ILCS 5/8-503) (from Ch. 111 2/3, par. 8-503)

11 Sec. 8-503. Whenever the Commission, after a hearing, shall  
12 find that additions, extensions, repairs or improvements to, or  
13 changes in, the existing plant, equipment, apparatus,  
14 facilities or other physical property of any public utility or  
15 of any 2 or more public utilities are necessary and ought  
16 reasonably to be made or that a new structure or structures is  
17 or are necessary and should be erected, to promote the security  
18 or convenience of its employees or the public or promote the  
19 development of an effectively competitive electricity market,  
20 or in any other way to secure adequate service or facilities,  
21 the Commission shall make and serve an order authorizing or  
22 directing that such additions, extensions, repairs,  
23 improvements or changes be made, or such structure or  
24 structures be erected at the location, in the manner and within  
25 the time specified in said order; provided, however, that the

1 Commission shall have no authority to order the construction,  
2 addition or extension of any electric generating plant unless  
3 the public utility requests a certificate for the construction  
4 of the plant pursuant to Section 8-406 and in conjunction with  
5 such request also requests the entry of an order under this  
6 Section. If any additions, extensions, repairs, improvements  
7 or changes, or any new structure or structures, which the  
8 Commission has authorized or ordered to be erected, require  
9 joint action by 2 or more public utilities, the Commission  
10 shall notify the said public utilities that such additions,  
11 extensions, repairs, improvements or changes or new structure  
12 or structures have been authorized or ordered and that the same  
13 shall be made at the joint cost whereupon the said public  
14 utilities shall have such reasonable time as the Commission may  
15 grant within which to agree upon the apportionment or division  
16 of cost of such additions, extensions, repairs, improvements or  
17 changes or new structure or structures, which each shall bear.  
18 If at the expiration of such time such public utilities shall  
19 fail to file with the Commission a statement that an agreement  
20 has been made for a division or apportionment of the cost or  
21 expense of such additions, extensions, repairs, improvements  
22 or changes, or new structure or structures, the Commission  
23 shall have authority, after further hearing, to make an order  
24 fixing the proportion of such cost or expense to be borne by  
25 each public utility and the manner in which the same shall be  
26 paid or secured.

1           Nothing in this Act shall prevent the Commission, upon its  
2 own motion or upon petition, from ordering, after a hearing,  
3 the extension, construction, connection or interconnection of  
4 plant, equipment, pipe, line, facilities or other physical  
5 property of a public utility in whatever configuration the  
6 Commission finds necessary to ensure that natural gas is made  
7 available to consumers at no increased cost to the customers of  
8 the utility supplying the gas.

9           Whenever the Commission finds, after a hearing, that the  
10 public convenience or necessity requires it, the Commission may  
11 order public utilities subject to its jurisdiction to work  
12 jointly (1) for the purpose of purchasing and distributing  
13 natural gas or gas substitutes, provided it shall not increase  
14 the cost of gas to the customers of the participating  
15 utilities, or (2) for any other reasonable purpose.

16       (Source: P.A. 90-561, eff. 12-16-97.)

17           (220 ILCS 5/16-118)

18           Sec. 16-118. Services provided by electric utilities to  
19 alternative retail electric suppliers.

20           (a) It is in the best interest of Illinois energy consumers  
21 to promote fair and open competition in the provision of  
22 electric power and energy and to prevent anticompetitive  
23 practices in the provision of electric power and energy.  
24 Therefore, to the extent an electric utility provides electric  
25 power and energy or delivery services to alternative retail

1 electric suppliers and such services are not subject to the  
2 jurisdiction of the Federal Energy Regulatory Commission, and  
3 are not competitive services, they shall be provided through  
4 tariffs that are filed with the Commission, pursuant to Article  
5 IX of this Act. Each electric utility shall permit alternative  
6 retail electric suppliers to interconnect facilities to those  
7 owned by the utility provided they meet established standards  
8 for such interconnection, and may provide standby or other  
9 services to alternative retail electric suppliers. The  
10 alternative retail electric supplier shall sign a contract  
11 setting forth the prices, terms and conditions for  
12 interconnection with the electric utility and the prices, terms  
13 and conditions for services provided by the electric utility to  
14 the alternative retail electric supplier in connection with the  
15 delivery by the electric utility of electric power and energy  
16 supplied by the alternative retail electric supplier.

17 (b) An electric utility shall file a tariff pursuant to  
18 Article IX of the Act that would allow alternative retail  
19 electric suppliers or electric utilities other than the  
20 electric utility in whose service area retail customers are  
21 located to issue single bills to the retail customers for both  
22 the services provided by such alternative retail electric  
23 supplier or other electric utility and the delivery services  
24 provided by the electric utility to such customers. The tariff  
25 filed pursuant to this subsection shall (i) require partial  
26 payments made by retail customers to be credited first to the



1 electric utility's tariffed services, (ii) impose commercially  
2 reasonable terms with respect to credit and collection,  
3 including requests for deposits, (iii) retain the electric  
4 utility's right to disconnect the retail customers, if it does  
5 not receive payment for its tariffed services, in the same  
6 manner that it would be permitted to if it had billed for the  
7 services itself, and (iv) require the alternative retail  
8 electric supplier or other electric utility that elects the  
9 billing option provided by this tariff to include on each bill  
10 to retail customers an identification of the electric utility  
11 providing the delivery services and a listing of the charges  
12 applicable to such services. The tariff filed pursuant to this  
13 subsection may also include other just and reasonable terms and  
14 conditions. In addition, an electric utility, an alternative  
15 retail electric supplier or electric utility other than the  
16 electric utility in whose service area the customer is located,  
17 and a customer served by such alternative retail electric  
18 supplier or other electric utility, may enter into an agreement  
19 pursuant to which the alternative retail electric supplier or  
20 other electric utility pays the charges specified in Section  
21 16-108, or other customer-related charges, including taxes and  
22 fees, in lieu of such charges being recovered by the electric  
23 utility directly from the customer.

24 (c) An electric utility with more than 100,000 customers  
25 shall file a tariff pursuant to Article IX of this Act that  
26 provides alternative retail electric suppliers, and electric

1 utilities other than the electric utility in whose service area  
2 the retail customers are located with the option to have the  
3 electric utility purchase their receivables for power and  
4 energy service provided to retail customers with a  
5 non-coincident peak demand of less than 400 kilowatts.  
6 Receivables for power and energy of alternative retail electric  
7 suppliers or electric utilities other than the electric utility  
8 in whose service area the retail customers are located shall be  
9 purchased by the electric utility at a just and reasonable  
10 discount rate to be reviewed and approved by the Commission  
11 after notice and hearing. The discount rate shall be based on  
12 the electric utility's historical bad debt and any  
13 administrative costs associated with the electric utility's  
14 purchase of receivables. The discounted rate for purchase of  
15 receivables shall be included in the tariff filed pursuant to  
16 this subsection (c). The discount rate filed pursuant to this  
17 subsection shall be subject to periodic reconciliations and  
18 Commission review. The electric utility shall impose the same  
19 terms on retail customers with respect to credit and  
20 collection, including requests for deposits, and retain the  
21 electric utility's right to disconnect the retail customers, if  
22 it does not receive payment for its tariffed services or  
23 purchased receivables, in the same manner that it would be  
24 permitted to if the retail customers purchased power and energy  
25 from the electric utility. The tariff filed pursuant to this  
26 subsection (c) may also include other just and reasonable terms

1 and conditions.

2 (d) An electric utility with more than 100,000 customers  
3 shall file a tariff pursuant to Article IX of this Act that  
4 would provide alternative retail electric suppliers or  
5 electric utilities other than the electric utility in whose  
6 service area retail customers are located with the option to  
7 have the electric utility produce and provide single bills to  
8 the retail customers for both the services provided by the  
9 alternative retail electric supplier or other electric utility  
10 and the delivery services provided by the electric utility to  
11 the customers. The tariffs filed pursuant to this subsection  
12 shall require the electric utility to collect and remit  
13 customer payments for services provided by alternative retail  
14 electric suppliers or electric utilities other than the  
15 electric utility in whose service area retail customers are  
16 located. The tariff filed pursuant to this subsection shall  
17 require the electric utility to include on each bill to retail  
18 customers an identification of the alternative retail electric  
19 supplier or other electric utility that elects the billing  
20 option. The tariff filed pursuant to this subsection (d) may  
21 also include other just and reasonable terms and conditions and  
22 provide for the recovery of prudently incurred costs associated  
23 with the provision of service pursuant to this subsection (d).  
24 The costs associated with the provision of service pursuant to  
25 this section shall be subject to periodic Commission review.

26 (e) Within 45 days after the effective date of this

1 amendatory Act of the 95th General Assembly, each electric  
2 utility with more than 100,000 customers in this State shall  
3 file a tariff pursuant to Article IX of this Act that provides  
4 alternative retail electric suppliers with the option to have  
5 the electric utility purchase 2 billing cycles worth of  
6 uncollectible receivables for power and energy service  
7 provided to a retail customer with a non-coincident peak demand  
8 of less than 400 kilowatts upon returning that customer to that  
9 electric utility for delivery and energy service after that  
10 alternative retail electric supplier has made reasonable  
11 collection efforts on that account. The electric utility shall  
12 recover any prudently incurred administrative expenses  
13 incurred in connection with this subsection through its  
14 delivery case filings with the Commission but shall not permit  
15 the double recovery of utility bad debt expenses from  
16 customers.

17 (Source: P.A. 90-561, eff. 12-16-97.)

18 (220 ILCS 5/20-130 new)

19 Sec. 20-130. Retail choice and referral programs.

20 (a) The Commission shall have the authority to establish  
21 retail choice and referral programs to be administered by an  
22 electric utility or the State in which residential and small  
23 commercial customers receive incentives, including, but not  
24 limited to, discounted rate introductory offers for switching  
25 to participating electric suppliers.

1       (b) Reasonable costs associated with the implementation  
2 and operation of customer choice and referral programs may be  
3 recovered in an electric utility's distribution rates.  
4 Reasonable costs associated with the implementation and  
5 operation of a customer choice program may also be recovered  
6 from retail electric suppliers participating in a customer  
7 choice and referral program. In no event, however, shall the  
8 Commission mandate a cost recovery mechanism without first  
9 providing all interested parties notice and an opportunity to  
10 be heard in a hearing before the Commission.

11       (c) The Office of Retail Market Development shall serve as  
12 the clearinghouse for the development of retail choice and  
13 referral programs and shall work with electric utilities and  
14 interested parties on a continuous basis to implement and  
15 improve upon the programs. Nothing in this Section, however,  
16 shall prevent an electric utility on its own accord from  
17 implementing retail choice and referral programs.

18       (d) Only customers that qualify for utility service shall  
19 be eligible for retail choice and referral programs.

20       (e) The Office of Retail Market Development shall  
21 immediately upon the effective date of this amendatory Act of  
22 the 95th General Assembly explore for possible implementation  
23 on as expedited basis as possible the following retail choice  
24 and referral programs:

25           (1) An introductory fixed discount program in which  
26 suppliers participating in the program offer customers a

1 fixed percentage discount off of the electric utility's  
2 supply rate for a set number of billing periods. Customers  
3 would be able to enroll in the program by using an online  
4 enrollment form, completing an enrollment card found in  
5 their monthly electric utility bill, or by calling a  
6 toll-free number. Customers would be free to withdraw from  
7 the program at any time and select another alternative  
8 retail electric supplier or return to the electric utility.

9 (2) A new customer program in which electric utilities  
10 would offer consumers initiating new electric service a  
11 choice of offers from participating electric suppliers to  
12 provide the consumer's electric supply service. Customers  
13 expressing a preference for a specific electric supplier  
14 would be enrolled with that supplier. Customers not  
15 expressing a preference for a specific electric supplier  
16 would be offered the opportunity to enroll with an electric  
17 supplier selected randomly on a rotating basis.

18 (3) A customer service call center referral program in  
19 which customers calling an electric utility's call center  
20 would be offered enrollment with an alternative retail  
21 electric supplier and informed that they have the option to  
22 receive immediate savings or introductory offers by  
23 participating in the referral program. Customers choosing  
24 to participate would be transferred to a customer service  
25 representative for the program and would either select the  
26 electric supplier from which they would like to take

1       service or be placed with a participating electric supplier  
2       chosen at random on a rotating basis.

3       Nothing in this Section shall prevent the Office of Retail  
4       Market Development or the Commission from considering retail  
5       choice and referral programs in addition to the programs  
6       outlined in this Section.

7           Section 10. The Consumer Fraud and Deceptive Business  
8       Practices Act is amended by changing Section 2EE as follows:

9           (815 ILCS 505/2EE)

10          Sec. 2EE. Electric service provider selection. An electric  
11       service provider shall not submit or execute a change in a  
12       subscriber's selection of a provider of electric service unless  
13       and until the request for a change has been confirmed in  
14       accordance with one of the following procedures ~~except as~~  
15       ~~follows:~~

16          (a) The new electric service provider has obtained the  
17       subscriber's ~~customer's~~ written or electronically signed  
18       authorization in a form that meets the following requirements:

19               (1) An electric service provider shall obtain any  
20               necessary written authorization from a subscriber for a  
21               change in electric service by using a letter of agency as  
22               specified in this Section. Any letter of agency that does  
23               not conform with this Section is invalid.

24               (2) The letter of agency shall be a separate document

1 (an easily separable document containing only the  
2 authorization language described in subparagraph (a)(5) of  
3 this Section) whose sole purpose is to authorize an  
4 electric service provider change. The letter of agency must  
5 be signed and dated by the subscriber requesting the  
6 electric service provider change.

7 (3) The letter of agency shall not be combined with  
8 inducements of any kind on the same document.

9 (4) Notwithstanding subparagraphs (a)(1) and (a)(2) of  
10 this Section, the letter of agency may be combined with  
11 checks that contain only the required letter of agency  
12 language prescribed in subparagraph (a) (5) ~~paragraph (5)~~  
13 of this Section and the necessary information to make the  
14 check a negotiable instrument. The letter of agency check  
15 shall not contain any promotional language or material. The  
16 letter of agency check shall contain in easily readable,  
17 bold-face type on the face of the check, a notice that the  
18 consumer is authorizing an electric service provider  
19 change by signing the check. The letter of agency language  
20 also shall be placed near the signature line on the back of  
21 the check.

22 (5) At a minimum, the letter of agency must be printed  
23 with a print of sufficient size to be clearly legible, and  
24 must contain clear and unambiguous language that confirms:

25 (i) The subscriber's billing name and address;

26 (ii) The decision to change the electric service



1 provider from the current provider to the prospective  
2 provider;

3 (iii) The terms, conditions, and nature of the  
4 service to be provided to the subscriber must be  
5 clearly and conspicuously disclosed, in writing, and  
6 an electric service provider must directly establish  
7 the rates for the service contracted for by the  
8 subscriber; and

9 (iv) That the subscriber understand that any  
10 electric service provider selection the subscriber  
11 chooses may involve a charge to the subscriber for  
12 changing the subscriber's electric service provider.

13 (6) Letters of agency shall not suggest or require that  
14 a subscriber take some action in order to retain the  
15 subscriber's current electric service provider.

16 (7) If any portion of a letter of agency is translated  
17 into another language, then all portions of the letter of  
18 agency must be translated into that language.

19 (b) An appropriately qualified independent third party has  
20 obtained, in accordance with the procedures set forth in  
21 paragraphs (1) through (4) of this subsection (b), the  
22 subscriber's oral authorization to change electric suppliers  
23 that confirms and includes appropriate verification data. The  
24 independent third party (i) must not be owned, managed,  
25 controlled, or directed by the supplier or the supplier's  
26 marketing agent; (ii) must not have any financial incentive to

1 confirm supplier change requests for the supplier or the  
2 supplier's marketing agent; and (iii) must operate in a  
3 location physically separate from the supplier or the  
4 supplier's marketing agent.

5 Automated third-party verification systems and 3-way  
6 conference calls may be used for verification purposes so long  
7 as the other requirements of paragraphs (2) through (4) of this  
8 subsection (b) are satisfied.

9 A supplier or supplier's sales representative initiating a  
10 3-way conference call or a call through an automated  
11 verification system must drop off the call once the 3-way  
12 connection has been established.

13 All third-party verification methods shall elicit, at a  
14 minimum, the following information: (i) the identify of the  
15 subscriber; (ii) confirmation that the person on the call is  
16 authorized to make the supplier change; (iii) confirmation that  
17 the person on the call wants to make the supplier change; (iv)  
18 the names of the suppliers affected by the change; and (v) the  
19 service address of the supply to be switched. Third-party  
20 verifiers may not market the supplier's services by providing  
21 additional information, including information regarding  
22 procedures to block or otherwise freeze an account against  
23 further changes.

24 All third-party verifications shall be conducted in the  
25 same language that was used in the underlying sales transaction  
26 and shall be recorded in their entirety. Submitting suppliers

1 shall maintain and preserve audio records of verification of  
2 subscriber authorization for a minimum period of 2 years after  
3 obtaining the verification. Automated systems must provide  
4 consumers with an option to speak with a live person at any  
5 time during the call.

6 (c) When a subscriber initiates the call to the prospective  
7 electric supplier and the prospective electric supplier has,  
8 with the consent of the customer, made a date-stamped and  
9 time-stamped audio recording that elicits, at a minimum, the  
10 following information:

11 (1) the identity of the subscriber;

12 (2) confirmation that the person on the call is  
13 authorized to make the supplier change;

14 (3) confirmation that the person on the call wants to  
15 make the supplier change;

16 (4) the names of the suppliers affected by the change;  
17 and

18 (5) the service address of the supply to be switched.

19 Submitting suppliers shall maintain and preserve the audio  
20 records containing the information set forth above for a  
21 minimum period of 2 years.

22 (d) For purposes of this Section, "electric service  
23 provider" shall have the meaning given that phrase in Section  
24 6.5 of the Attorney General Act.

25 (Source: P.A. 90-561, eff. 12-16-97.)".